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ALEXANDER L. STEVAS,
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NO.82-1734

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

LINDA SIDOTI PALMORE,

PETITIONER,

v.

ANTHONY J. SIDOTI,

RESPONDENT,

ON WRIT OF CERTIORARI TO THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED APRIL 23,1983
CERTIORARI GRANTED OCTOBER 17, 1983

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RELEVANT DOCKET ENTRIES

In the Circuit Court of the Thirteenth Jucicial Circuit of the State of Florida, In and For Hillsborough County Docket Number 80-1915

Date	Proceeding
May 29, 1980	Final Judgment of Dissolution of Marriage
September 30, 1981	Petition for Modification of Final Judgment
December 16, 1981	Motion for Social Investigation
December 23, 1981	Order Granting Motion for Social Investigation
February 1, 1982	Final Hearing
February 1, 1982	Respondent's Exhibit #1 - Petitioner's Marriage Certificate
February 10, 1982	Memorandum Stating Objections to Memorandum together with copy of document attached thereto
March 2, 1982	Order on Modification of Final Judgment

RELEVANT DOCKET ENTRIES

In the Circuit Court of the Thirteenth Jucicial Circuit of the State of Florida, In and For Hillsborough County Docket Number 80-1915

Date	Proceeding
March 29, 1982	Notice of Appeal
April 1, 1982	Motion for Stay Pending Appeal
April 13, 1982	Order Denying Stay Pending Appeal
May 5, 1982	Reply to Motion to Review Denial of Motion for Stay Pending Appeal
June 14, 1982	Office of Circuit Court Counselor, Investigative Report

In the District Court of Appeal of Florida, Second District Docket Number 82-739

Date	Proceeding
April 15, 1982	Motion for Review of Denial of Motion for Stay Pending Appeal
April 15, 1982	Memorandum of Law in Support of Motion For Review

In the District Court of Appeal of Florida, Second District Docket Number 82-739

Date	Proceeding
May 13, 1983	Order Granting Motion for Review of Motion for Stay Pending Appeal
June 7, 1982	Initial Brief of Appellant
July 13, 1982	Reply Brief of Appellant (sic)
August 6, 1982	Appellant's Reply Brief
December 8, 1982	Decision Affirming Decision of Circuit Court
December 27, 1982	Motion for Stay Mandate
December 27, 1982	Petition for Rehearing
January 24, 1983	Order Denying Motion for Rehearing and Motion to Stay Mandate

IN THE CIRCUIT COURT OF THE
THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR HILLSBOROUGH COUNTY,
CIVIL ACTION

IN RE: THE MARRIAGE OF:*	
ANTHONY J. SIDOTI,	*CASE NO. 80-1915
Husband,	*DIVISION D
and	*Filed May 29, 1980 Clerk Circuit Court
LINDA A. SIDOTI,	*Hillsborough County Florida
Wife.	*

FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE

THIS CAUSE COMING before the Court on May 23, 1980 upon Petition for Dissolution of Marriage, and there appearing before the Court the Petitioner, LINDA A. SIDOTI; Petitioner's attorney, THOMAS H. WEISENFELD, ESQ. of the Hillsborough County Legal Aid Bureau, Tampa, Florida; and the Respondent, ANTHONY J. SIDOTI, and the Court having heard the testimony and being

otherwise fully advised in the premises, finds:

1. The Court has jurisdiction of the parties the child and the subject matter herein.

2. One child has been born as a result of the union of the parties hereto, to-wit: MELANIE LYNN SIDOTI, born June 24, 1977.

3. Said minor child is in the care, custody and control of LINDA A. SIDOTI, who is a fit and proper person to have such custody.

4. Respondent, ANTHONY J. SIDOTI, is capable of earning sufficient monies with which to pay a reasonable sum of child support together with medical and dental expenses for the minor child of the parties.

5. The marriage of the parties is irretrievably broken.

It is therefore

ORDERED AND ADJUDGED that:

1. The marriage between LINDA A. SIDOTI and ANTHONY J. SIDOTI is hereby forever dissolved; and the parties and each of them, are hereby free from the bonds of matrimony and the obligations arising therefrom and are awarded a final dissolution of marriage.

2. LINDA A. SIDOTI shall have the permanent care, custody and control of the minor child of the parties, to-wit: MELANIE LYNN SIDOTI, born June 24, 1977, subject to reasonable rights of visitation in favor of ANTHONY J. SIDOTI.

3. ANTHONY J. SIDOTI shall pay to LINDA A. SIDOTI for the support of the minor child of the parties, the sum of $30.00 per week, said sum to be paid

through the Support Department, Clerk of the above styled Court, together with the Clerk's fee therein.

4. ANTHONY J. SIDOTI shall pay all medical and dental bills incurred on behalf of the minor child of the parties.

DONE AND ORDERED at Tampa, Florida this 29th day of May, 1980.

/s/ Morison Buck
CIRCUIT JUDGE

Copies to: Legal Aid Bureau
311 N. Morgan Street
Tampa, Florida 33602

Linda A. Sidoti
1400 Oak Valley Dr.
Seffner, FL 33584

Anthony J. Sidoti
4033 Riverview Dr.
Tampa, FL 33604

Support Department
Clerk of the Circuit Court
Hillsborough County Courthouse
Tampa, Florida 33602

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY, CIVIL ACTION

IN RE: The Marriage of:

ANTHONY J. SIDOTI,	:CASE NO. 80-1915
Petitioner,	:DIVISION D
and	:Filed September 30, 1981
LINDA A. SIDOTI,	:Clerk Circuit Court Hillsborough County,
Respondent.	:Florida

PETITION FOR MODIFICATION OF FINAL JUDGMENT

COMES NOW the Petitioner ANTHONY J. SIDOTI, hereinafter referred to as "Father", by and through his undersigned attorney, and petitions this Honorable Court for modification of the Final Judgment of Dissolution of Marriage entered by this Court on the 29th day of May, 1980, and alleges as follows:

1. That under the terms of the Final

Judgment heretofore entered in this cause, Respondent LINDA A. SIDOTI, hereinafter referred to as "Mother", was given the custody of the minor child of the parties, to-wit: MELANIE LYNN SIDOTI, born June 24, 1977, subject to reasonable rights of visitation in favor of the Father, ANTHONY J. SIDOTI.

2. That since the entry of the Final Judgment the Mother has not provided the minor child of the parties with an environment condusive(sic) to the rearing of a child of such tender age, and certainly has not acted in the best interest and welfare of said minor child in that she has had a black male living with her for some period of time, and may even still be living with her, a fact that she did not try to conceal from the minor child and, in fact, even

permitted the child to be in the same bed with them on different occasions.

3. That the child has on two different occasions had head lice and when the Father brought it to the attention of the Mother, she did nothing to correct the situation, was not even concerned and took the attitude that the child had previously child had previously had head lice and that they had gone away on their own.

4. That the Mother has been negligent in the care of the minor child of the parties in that she has not provided the child with proper nutrition, sends the child to a daycare center in dirty clothes that are mildewed and is not regular as to the time nor manner in which she picks up the child from school.

5. That since the entry of the Final Judgment herein, the Father has remarried

and can provide his minor child with the proper care and love that a child of her tender age needs. Further, that the minor child has developed an affection for the Father's wife and the best interest of the child will be met if custody is given to the Father.

WHEREFORE, Petitioner/Father, ANTHONY J. SIDOTI, respectfully petitions this Honorable Court, after due hearing, to modify the Final Judgment heretofore entered in this cause and award him custody of said minor child.

/s/ROBERT H. CARLTON
1101 E. Jackson Street
Tampa, Florida 33602
(813) 229-6197
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE OMITTED IN PRINTING

Joe A. Rodante
Notary Public
State of Florida
at Large

What therefore God hath joined together, let not man put asunder

St. Matt. 19:6.

God stand beside you on this day of days, that in Healthy, Wealthy, And Happy Wedlock you may live always.

Joe Angelo Rodante

Notary Public State of Florida at Large My Commission Expires December 13, 1984

Filed in evidence as resp's Exhibit #1 this 1st day of February, 1982

s/m. Buck
Circuit Judge

This Certifies

That on the 21st day of November in the year of our Lord

1981

Clarence Palmore Jr.

and

Linda Ann Sidoti

were by me

United in Marriage

at Seffner

County of Hillsborough

according to the ordinance of God an the Laws of Florida

Official Joe A. Rodante

Witnesses E. A. Becker

Angelina Rodante

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY

CIVIL ACTION

IN RE: THE MARRIAGE OF:*	
ANTHONY J. SIDOTE,(sic)	*CASE NO. 80-1915
Petitioner/Husband,	*DIVISION D
and	*Filed February 10, 1982
LINDA A. SIDOTI,	*Clerk Circuit Court Hillsborough County
Respondent/Wife.	*Florida

MEMORANDUM STATING OBJECTIONS TO MEMORANDUM OF COURT

Respondent, by and through her undersigned attorney, hereby files this Memorandum in response to the Memorandum written by the court dated February 4 and attached hereto as Exhibit A.

Respondent respectfully submits that the facts in this case are not the same as those in Niles v. Niles, 229 So.2d 162

(Fla. 2nd DCA 1974). In the Niles case there was evidence that the child's behavior had worsened. This is not so in this case. Petitioner has not produced any evidence that the child in the instant case has been adversely affected in any way by the Respondent's conduct.

Furthermore, Respondent submits that deprivation of her child by reason of interracial marriage violates her rights to privacy, equal protection and due process of law as guaranteed by the First and Fourteenth Amendments to the United States Constitution and Article One, Sections 2 and 9 of the Constitution of the State of Florida. Respondent also submits that said deprivation violates her and her husband's right to be free from the badges of slavery

as guaranteed by the Thirteenth Amendment to the United States Constitution.

Respectfully submitted,

/s/ROBERT J. SHAPIRO, ESQ.
300 North Franklin Street
Tampa, Florida 33602
(813) 229-0378

CERTIFICATE OF SERVICE OMITTED IN PRINTING

CHAMBERS OF
CIRCUIT JUDGE
13TH JUDICIAL CIRCUIT OF FLORIDA
COURTHOUSE

TAMPA, FLORIDA 33602

Morison Buck

MEMO

February 4, 1982

TO: Robert J. Carlton, Esq.
Robert J. Shapiro, Esq.

RE: Sidoti v. Sidoti #80-1915

This is a post-judgment proceeding initiated by the father of Melanie Lynn, born June 24, 1977, to obtain custody. Final Judgment rendered May 29, 1980 awarded custody to the mother and reasonable visitation to the father with concomitant support requirements. Both parties have remarried, and there is no issue as to either party's devotion to the child, adequacy of housing facilities, or respectibility of the new spouse of either parent.

EXHIBIT A

Husband's allegations pertaining to a material change in circumstances are that the wife's close association with her present husband, a black male about 10 years her junior, prior to her November 21, 1981 marriage to him, created a bad environment for the child. Secondarily, he says that the child was found with an infestation of head lice on two occasions and with clothing stained by mildew and that those conditions are indicative of some degree of neglect by the custodian/mother.

The mother did not dispute the fact that she was cohabiting with her present husband while a single woman but insists that no sexual activity of any nature ever took place in the presence of Melanie. Mrs. Palmore has custody of a 17 year old son by a previous marriage and the house-

hold consists of herself, her husband, teenage son and Melanie. The latter is in day care for 8 hours daily.

The Court has received the benefit of a home investigative study made by Mr. John C. Knight, Jr., a senior, well trained and experienced member of the Court Counselor serving this Circuit. He is, by sheer coincidence, the same counselor who made a report in a case coming out of this circuit also involving the social consequences of an interracial marriage. Niles v. Niles, 299 So.2d 162. Although there were other elements in Niles not present here, e.g. emotional instability of the mother, there was evidence that the mother entertained men in the home overnight while the children were present. In the present case, the evidence is that the mother did have one

other male friend at the home on an occasion, and that she shared her bed with Mr. Palmore for a period of time before they married. The Court counselor's reasoning is the same as it was in Niles, when he recommended removal of the child from the mother because she "had chosen for herself and therefore for herself and the children), a life style unacceptable to the father of the children and the society in which we live."

The father's evident resentment of the mother's choice of a black partner is not sufficient to wrest custody from the mother. It is of some significance, however, that the mother did see fit to bring a man into her home and carry on a sexual relationship with him without being married to him. Such action tended to place gratification of her own desires ahead of her

concern for the child's future welfare. This Court feels that despite the strides that have been made in bettering relations between the races in this country, it is inevitable that Melanie will, if allowed to remain in her present situation and attains school age and thus more vulnerable to peer pressures, suffer from the social stigmatization that is sure to come.

There being substantial competent evidence of changed circumstances and that the best interest of the child will be served, the Court will direct that counsel for husband prepare an Order:

a) Granting the husband's Petition, and divesting the respondent of custody effective immediately.

b) Provide for reasonable visitation on reasonable advance notice.

c) Terminate the present support order and retain jurisdiction for future provisions therefor.

d) Restrict both parties from removing the child from the jurisdiction of the Court without prior Court approval.

e) Require each party to pay his own counsel fees and costs.

/s/Morison Buck

MB:m